

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JASON MOLLETT, an individual,

Plaintiff,

v.

AEROTEK, INC., et al.,

Defendants.

CASE NO. C20-6168 RSM

ORDER

This matter is before the Court on Plaintiff's Motion for Protective Order Staying Discovery and Continuing Case Deadlines. Dkt. #16. Plaintiff filed his motion after this case was removed from state court and in advance of an anticipated motion for remand.<sup>1</sup> In his motion, Plaintiff expressed concern that requiring the parties to proceed with Federal Rule of Civil Procedure 26 requirements would be unnecessarily duplicative if remand was ultimately granted. Additionally, Plaintiff indicated that some initial discovery had already occurred under applicable state court rules and that he, at least,<sup>2</sup> had served some discovery requests while the

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<sup>1</sup> That motion for remand has since been filed. *See* Dkt. #25.

<sup>2</sup> The record does not appear to reflect that Defendants served any discovery requests on Plaintiff.

1 action was proceeding in state court. Dkt. #16 at 4–5. Plaintiff’s motion requested that the Court  
2 stay discovery pending resolution of the anticipated motion for remand.

3 Defendants responded and objected, to the extent the motion sought a protective order,  
4 because the meet and confer required by local rule had not occurred but otherwise did not object  
5 to continuing the initial case deadlines. Dkts. ##17–18. Plaintiff replied, indicating that an after-  
6 the-fact meet and confer was held after counsel was alerted to the issue and that the parties agreed  
7 to seek to extend initial case deadlines but that they were unable to agree on a stay of discovery.  
8 Dkt. #19. At the administrative request of the parties, the Court subsequently continued the initial  
9 scheduling dates set in its Order Regarding Initial Disclosures, Joint Status Report, and Early  
10 Settlement. *See* Dec. 17, 2020 docket entry. The earliest of those deadlines is now February 12,  
11 2021. *Id.*

12 On December 23, 2020, and after briefing on the motion was complete, Defendant Park  
13 Plaza, LLC filed responses to discovery requests that the Court assumes were served by Plaintiff  
14 in the state court action. Dkt. #20. This filing was not in accordance with the Court’s local rules,  
15 which provide that “Rule 26 initial disclosures and discovery requests and responses must not be  
16 filed unless they are used in the proceedings or the court orders filing.” Local Rules W.D. Wash.  
17 LCR 5(d). Nevertheless, the intent behind the filing was apparent as they lodged an objection to  
18 the effect that removal nullified the prior state court discovery requests, that Plaintiff had himself  
19 sought a stay of discovery, and that Federal Rule of Civil Procedure 26 does not, in the normal  
20 course, permit discovery until after the parties have held a Rule 26(f) conference. Dkt. #20.

21 On December 30, 2020, Plaintiff filed his motion for remand. Dkt. #25. That motion is  
22 noted for the Court’s consideration on January 22, 2021. *Id.*

23 Having slogged through the quagmire of facts relevant to this matter, the Court addresses  
24 the core questions presented by Plaintiff’s motion. The request for a continuance of the initial

1 case deadlines is no longer pertinent. Those dates have been extended and Plaintiff's motion for  
2 remand has been filed. To the extent another extension is necessary prior to the Court resolving  
3 the motion for remand, one may be sought at the appropriate time. The request is denied as moot.

4 The request for a stay of discovery also appears moot. The Court does not find that  
5 Plaintiff's motion violates Local Rule 26(c)(1)'s requirement that the parties meet and confer  
6 before filing motions for protective orders as no discovery requests had been served on Plaintiff.<sup>3</sup>  
7 Nor were any discovery requests forthcoming. Whatever the propriety of Defendant Park Plaza,  
8 LLC filing discovery responses, it is correct that Rule 26(d)(1) does not permit for parties to  
9 pursue discovery at this stage of the federal action. *See* FED. R. CIV. P. 26(d)(1) ("A party may  
10 not seek discovery from any source before the parties have conferred as required by Rule 26(f).").  
11 As no discovery requests have been served on Plaintiff and, by rule, may not be served at this  
12 stage, his request for a stay of discovery is moot and the Court denies it as such.<sup>4</sup>

13 Accordingly, having reviewed Plaintiff's motion, the parties' briefing, and the remainder  
14 of the record, the Court finds and ORDERS that Plaintiff's Motion for Protective Order Staying  
15 Discovery and Continuing Case Deadlines (Dkt. #16) is DENIED as moot.

16 Dated this 25<sup>th</sup> day of January, 2021.

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19 RICARDO S. MARTINEZ  
20 CHIEF UNITED STATES DISTRICT JUDGE

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22 <sup>3</sup> The Court does not intend to bless a position requiring fewer meet-and-confers between counsel  
23 and finds only in this circumstance that the requirement of a meet and confer is not an  
independent basis for denying Plaintiff's motion.

24 <sup>4</sup> To the extent Plaintiff's state court discovery requests remain pending, Plaintiff may, of course,  
release Defendants from any possible continuing obligation to respond to those requests.